

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

November 20, 2000

DIVISION TWO

Court convened at 9:15 A.M.

Present: Boren, P.J., Nott, J., Cooper, J., Todd, J. and J. Chlanda, Deputy Clerk.

B131481 Ronald McAtee
 v.
 Anna McAtee

Merits:

Argued by Robert Pellinen for appellant. No appearance for respondent.
Cause submitted.

B140671 Tomaryn et al.
 v.
 City of Torrance

Merits:

Argued by Peter Tomaryn for appellants and by John Fellows III for
respondent. Cause submitted.

B140262 Los Angeles County, D.C.F.S.
 v.
 Jennifer G.

Merits:

Argued by Janette Freeman Cochran for appellant, by Harry Zimmerman
for appellant and by Jay Custis, deputy county counsel, for respondent.
Cause submitted.

DIVISION TWO (Continued)

B131374 Pineda
 v.
 Paolomo

Merits:
Argued by Myron Moskovitz for appellant and by Gerald Peters for respondent. Cause submitted.

B132492 Kraft
 v.
 Safarik

Merits:
Argued by Cheryl Podbielski for appellant and by Tracy Augustine for respondent. Cause submitted.

B133472 Kraft
 v.
 Storz et al.

Merits:
Argued by Cheryl Podbielski for appellant and by Mitchell B. Stein for respondent and by Peter Fonda for respondent. Cause submitted.

Court recessed.

Court reconvened at 1:00 P.M.

Present: Boren, P.J., Nott, J., Cooper, J., Todd, J. and R. Mayfarth, Deputy Clerk

B136446 The People
 vs.
 Carlisle

Merits:
Argument waived, cause submitted.

DIVISION TWO (Continued)

B141831 Morgan
 vs.
 Board of Pension Commissioners

Merits:
Argued by Stephen Silver for appellant and Mary Jo Curwen for
respondent. Cause submitted.

Todd, J. leaves the bench.

B131021 Samadi, Inc.
 vs.
 Darling Construction

Matter ordered off calendar in open court.

B136430 Hanian
 vs.
 Reliance National Indemnity Company

Merits:
Argued by Michael Piuze for appellant and Diane Costales for respondent.
Cause submitted.

B138922 Cota
 vs.
 Simonton

Merits:
Argued by Alex Cota, appellant in propria persona, and Calvin House
for respondent. Cause submitted.

DIVISION TWO (Continued)

B135414 Murphy
 vs.
 City of Los Angeles

Merits:

Argued by Wayne Song, deputy city attorney, for appellant and Robert Nichols for respondent. Cause submitted.

Court adjourned at 2:00 P.M.

B136267 Wells Fargo Bank, etc. (Not for Publication)
 v.
 McBride

The orders denying the motion to vacate the order appointing counsel Lorna Greenhill, ordering payment of Greenhill's fees and denying attorney Foltz's request to be paid from the trust are affirmed. The portions of the court's orders finding the trust amendments invalid are reversed and the matter is remanded for proceedings consistent with this opinion. Each party to bear its own costs.

Cooper, J.

We concur: Boren, P.J.
 Nott, J.

B137175 People (Not for Publication)
 v.
 Barajas

The judgment is affirmed.

Cooper, J.

We concur: Boren, P.J.
 Nott, J.

DIVISION TWO (Continued)

B138871 People (Not for Publication)
v.
Sanchez

The judgment is modified to provide that execution of the sentence imposed for count 2 (possession of a controlled substance) is stayed pending the finality of the judgment and appellant's service of the sentence imposed for count 1 (sale, transportation, or offering to sell a controlled substance), with the stay to become permanent upon completion of the term imposed for count 1. As modified, the judgment is affirmed.

Boren, P.J.

We concur: Nott, J.
 Cooper, J.

DIVISION THREE

B136819 Ventura County Human Services Agency (Not for Publication)
v.
Victor C. and Crystal J.

The judgment is affirmed.

Kitching, J.

We concur: Klein, P.J.
Croskey, J.

B138951 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Lanna R.

The judgment is affirmed.

Kitching, Acting P.J.

We concur: Aldrich, J.
Perluss, J. (Assigned)

DIVISION THREE (Continued)

B139824 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Frank E.

The judgment is affirmed.

Kitching, J.

We concur: Croskey, Acting P.J.
 Aldrich, J.

B140974 People (Not for Publication)
v.
Terence Dwayne H.

The order under review is affirmed.

Aldrich, J.

We concur: Klein, P.J.
Croskey, J.

B136860 People (Not for Publication)
v.
Francisco V.

The order under review is affirmed.

Aldrich, J.

We concur: Croskey, Acting P.J.
 Kitching, J.

DIVISION THREE (Continued)

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The judgment is affirmed.

Klein, P.J.

We concur: Croskey, J.
 Aldrich, J.

B136128 Baines Pickwick Limited (Not for Publication)
v.
The City of Los Angeles

The judgment is reversed. The matter is remanded to the trial court for an evidentiary hearing on the issue of whether the City is estopped to assert the claims statutes. In the event the trial court finds the City is estopped, it shall reinstate the judgment for Baines; in the event the trial court rejects Baines's estoppel argument, it shall enter judgment for the City. Each party shall bear its own costs on appeal.

Klein, P.J.

I concur: Aldrich, J.
I dissent: Kitching, J. (Opinion)

B127047 Rallie P. Rallis
v.
Ralph Cassady et al.

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

DIVISION FOUR

B138546 Beroiz
 v.
 Wahl

Filed order modifying opinion. Petition for rehearing is denied. (No change in judgment)

B136310 People (Not for Publication)
 v.
 Blajos

The judgment is affirmed.

Curry, J.

We concur: Vogel (C.S.), P.J.
 Epstein, J.

B135628 People (Not for Publication)
 v.
 Abram

The judgment is reversed.

Curry, J.

We concur: Vogel (C.S.), P.J.
 Epstein, J.

B141091 Los Angeles County, D.C.F.S. (Not for Publication)
 v.
 Nathan H.

The judgment is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.
 Curry, J.

DIVISION FOUR (Continued)

B138731 Los Angeles County, D.C.F.S. (Not for Publication)
 v.
 Warren W.

The appeal is dismissed.

Epstein, Acting P.J.

We concur: Hastings, J.
 Curry, J.

B141078 Fields (Not for Publication)
 v.
 Workers Compensation Appeals Board
 City of Pasadena, Respondent

The decision of the WCAB is annulled and the matter is remanded for further proceedings consistent with this opinion.

Epstein, J.

We concur: Vogel (C.S.), P.J.
 Hastings, J.

DIVISION SIX

B130820 People (Not for Publication)
 v.
 Esfandiary

The judgment is affirmed.

Perren, J.

We concur: Gilbert, P.J.
 Coffee, J.

DIVISION SIX (Continued)

B141376 Pritchett (Not for Publication)
v.
Smith

The judgment is affirmed. Smith is awarded costs on appeal.

Gilbert, P.J.

We concur: Yegan, J.
Coffee, J.

B137226 People (Not for Publication)
v.
Ventura

The judgment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.
Coffee, J.

B137954 People (Not for Publication)
v.
Volk

The judgment is affirmed.

Perren, J.

We concur: Gilbert, P.J.
 Coffee, J.

DIVISION SIX (Continued)

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The judgment is affirmed.

Perren, J.

I concur: Gilbert, P.J.
I dissent: Yegan, J. (Opinion)

B137149 Corbani (Not for Publication)
v.
County of Santa Barbara
Vieja Owners Association

The judgment is reversed. Costs on appeal are awarded to appellant.

Gilbert, P.J.

We concur: Yegan, J.
Coffee, J.

DIVISION SEVEN

B132257 Hurley (Not for Publication)
v.
The Fairchild Corporation

The judgment in favor of respondent Hurley for breach of the covenant of good faith is reversed, and the trial court is directed to enter judgment in favor of Fairchild. The parties shall bear their own costs on appeal.

Neal, J.

I concur: Woods, J.
I dissent: Lillie, P.J. (Opinion)

DIVISION SEVEN (Continued)

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The judgment is affirmed.

Woods, J.

We concur: Lillie, P.J.
 Johnson, J.

B135289 People v. Hall (Not for Publication)

The judgment is corrected and amended to delete the penalty assessment of \$150,000 pursuant to Penal Code section 1464 and Government Code section 76000. Upon issuance of remittitur, the clerk of the superior court is directed to forward a copy of the corrected and amended abstract of judgment to the California Department of Corrections. The judgment is affirmed in all other respects.

Woods, J.

We concur: Lillie, P.J.
Neal, J.

B137932 People (Not for Publication)
v.
Devora

The judgment is affirmed.

Woods, J.

We concur: Lillie, P.J.
Neal, J.

DIVISION SEVEN (Continued)

B141925 Los Angeles County, D.C.F.S. (Not for Publication)

v.

John B.

In re Paulette B., a Person Coming Under the Juvenile Court Law.

The order terminating appellant's parental rights under section 366.26 is reversed and the matter is remanded to the trial court. On remand, the juvenile dependency court is ordered to: (1) vacate its order terminating appellant's parental rights to Paulette B.; (2) require the DCFS to engage in an additional "due diligence" search to locate appellant to provide him with notice of the new section 366.26 hearing; and (3) conduct a new section 366.26 hearing as to appellant's parental rights. This opinion does not alter the order terminating Celestine H.'s parental rights; the juvenile court is not required to conduct a new hearing as to parental rights of Celestine H. (See Los Angeles County Department of Children and Family Services v. Superior Court (Rebecca H.) (B142040, Aug. 24, 2000) 2000 Daily Journal D.A.R. 10329; 100 Cal.Rpt.2d 172.)

Woods, J.

We concur: Lillie, P.J.
Neal, J.

B136569 People (Not for Publication)

v.

Morales

The judgment is affirmed.

Johnson, J.

We concur: Lillie, P.J.
Woods, J.

DIVISION SEVEN (Continued)

B130805 Hurvitz et al. (Certified for Publication)
 v.
 Hoefflin et al.

The order is reversed to the extent it applies to information obtained independently of discovery. To the extent it applies to information obtained through discovery, it is affirmed. The order sealing the records in the trial court is vacated, and the record on appeal is also ordered unsealed. All parties to bear their own costs on appeal.

Johnson, Acting P.J.

We concur: Woods, J.
 Neal, J.

B141093 Los Angeles County, D.C.F.S. (Not for Publication)
 v.
 Raynaldo S.
 In re Ray S., Persons Coming Under the Juvenile Court Law.

The order terminating parental rights is reversed. The matter is remanded to the trial court with instructions to order the preparation of a new adoption assessment report in compliance with statutory requirements (including the complete record of family visitation), and to conduct a new hearing under Welfare and Institutions code section 366.26, in order to determine whether Raynaldo's parental rights should be terminated.

Johnson, Acting P.J.

We concur: Woods, J.
 Neal, J.